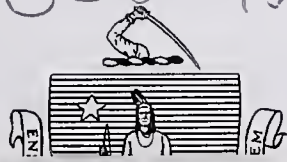


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POLICY BRIEF

Senate Post Audit and Oversight Bureau
Chair, Senator Cheryl A. Jacques

SEPTEMBER 1997

FINGERPRINTS OF THE FUTURE

**MASSACHUSETTS WILL LOSE FEDERAL GRANT FOR DNA DATABASE IF
CELLUCCI ADMINISTRATION AND LEGISLATURE DO NOT ACT IMMEDIATELY**

OCT 29 1999

- MASSACHUSETTS IS ONE OF ONLY THREE STATES THAT DOES NOT MAINTAIN A DNA DATABASE OR REQUIRE SEX OFFENDERS TO SUBMIT DNA SAMPLES.
- OVER 2,000 DNA SAMPLES FROM UNSOLVED SEXUAL ASSAULTS ARE LOCKED AWAY IN COLD STORAGE BECAUSE THERE IS NO STATE DNA DATABASE.
- UNLESS MASSACHUSETTS ENACTS DNA SAMPLING AND DATABASE LEGISLATION AND SUBMITS AN APPLICATION BEFORE SEPTEMBER 30, 1997 THE STATE WILL LOSE A \$172,000 FEDERAL GRANT.

Background

DNA identification technology is the most important advance in forensic investigation since fingerprinting. The most recent DNA identification techniques are highly accurate with only microscopic amounts of biological evidence. DNA technology has been successfully used to identify and convict criminals as well as to exclude innocent people from investigation. Furthermore, the Massachusetts Supreme Judicial Court recently affirmed the admissibility of DNA in criminal trials by allowing the use of a common and versatile DNA identification technique (Commonwealth vs. Vao Sok).

Massachusetts is one of only three states that does not require certain convicted offenders to submit DNA samples. Massachusetts also does not have a state-run DNA testing facility or a state DNA database that can compare crime scene DNA evidence with DNA samples from convicted offenders. Because the state lacks these prerequisites, Massachusetts cannot participate in the FBI's Combined DNA Index System (CODIS). CODIS enables state crime labs to exchange and compare DNA profiles electronically, making it possible to link crime scene DNA evidence from an unknown suspect with that of known offenders nationwide.

Legislation Awaits Action

A DNA sampling and database bill is already before the Massachusetts Legislature. House Bill #4646, "An Act Relative to the Enhancement of Law Enforcement Forensic Technology in the Commonwealth," requires individuals convicted of sex offenses and other crimes such as murder and armed robbery to submit samples of their DNA. The bill also creates a state DNA database that would enable Massachusetts to participate in CODIS and authorizes the establishment of state-run DNA testing facilities. House Bill #4646 was filed on June 25, 1997 and was reported out favorably by the Joint Committee on Public Safety on September 15, 1997.

A Clear Case in Favor of House Bill #4646

Public safety will be well served if just one violent crime is prevented through the enactment of House Bill #4646. The State Police Crime Lab has more than 2,000 unsolved sexual assault crime scene DNA samples in cold storage. Establishing a DNA database would immediately create the potential for new leads in cases where the trail has gone cold.

A state-run DNA testing facility will save taxpayer dollars. District Attorneys in Massachusetts spend up to \$20,000 for DNA testing on a single case because tests are done by a private lab. The cost for DNA testing and expert testimony on a case with five DNA samples is estimated to be \$8,430 at a private lab, compared to only \$2,620 at the State Police Crime Lab, a savings of 69 percent.

Massachusetts has been awarded a \$250,000 grant from the National Institute of Justice to help develop DNA testing capabilities. However, according to the FBI, *Massachusetts will lose a separate \$172,000 State Identification System federal grant unless the Cellucci Administration submits an application to the Bureau of Justice Assistance and the DNA sampling and database legislation becomes law by September 30, 1997.*

Finding

Massachusetts has an opportunity to bolster its crime fighting arsenal through DNA technology. The State needs both funding and statutory authority to use this important investigative tool to its full potential. Criminal investigations in Massachusetts will benefit immensely from the creation of a DNA database, and the creation of a state-run DNA testing facility will save Massachusetts taxpayers money.

Recommendation

- **The Cellucci Administration should submit a State Identification System federal grant application immediately.**
- **The Legislature should enact House Bill #4646 before September 30, 1997.**

We gratefully acknowledge the support and assistance of the Massachusetts State Police and the Federal Bureau of Investigation in preparing this policy brief. For more information, contact Senator Cheryl Jacques, Chair of the Senate Post Audit and Oversight Committee, at either cjacques@senate.state.ma.us or (617) 722-1555.



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FIGHTING CRIME WITH DNA

A CASE FOR THE DNA DATABASE

In 1995 Massachusetts Assistant Attorney General Paul McLaughlin was killed at a West Roxbury train station on his way home from work. No suspect has been indicted in the case, but DNA evidence was collected and tested. If Massachusetts had a DNA database that included convicted offender DNA information, a suspect might already have been identified and brought to trial. A state DNA database would enable investigators to search for a match between crime scene DNA evidence and known offenders, possibly leading to the arrest and conviction of a suspect.

CODIS MAKES A MATCH

According to the FBI, the Florida Department of Law Enforcement used CODIS in 1995 to match semen found on a rape-homicide victim to a convicted offender's DNA profile. Under the state's convicted offender law, the man's DNA had been analyzed and stored in a CODIS database while he was incarcerated for another rape. The timely match prevented the offender's release on parole, scheduled for just eight days later.

DNA EVIDENCE KEEPS A MURDERER IN JAIL

Jeffrey Fowler was convicted in December 1993 in Massachusetts of rape of a child with the use of force and murder in the first degree. Fowler had raped and murdered his girlfriend's two year old daughter. However, due to uncertainty over the admissibility of the PCR method of DNA testing used at the time, the trial judge set aside those guilty verdicts. On August 25, 1997 the verdicts were reinstated after the Massachusetts Supreme Judicial Court ruled that the PCR method of DNA testing is admissible in a criminal trial. The PCR method of DNA testing was a critical component in Jeffrey Fowler's conviction and ongoing incarceration.

CODIS CROSSES STATE LINES

A case that started in 1992 in Oklahoma with the stabbing deaths of five women was solved in 1997 because of a match found between crime scene DNA evidence and a convicted offender in California's DNA database. After law enforcement officials in Oklahoma developed a DNA identification profile for the suspect in 1995, California investigators matched the profile with a convict already in the database for rape, kidnapping, and assault.

